



October 8, 1999

Mr. Robert L. Kane  
University of Texas System  
Office of General Counsel  
201 West 7<sup>th</sup> Street  
Austin, Texas 78701-2981

OR99-2875

Dear Mr. Kane:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 128489.

The University of Texas System (the "system") received two open records requests for, among other things, the proposals submitted to the system in connection with its RFP for employee group insurance. You state that three of the insurance companies that submitted proposals do not object to the release of their respective proposals, which the system has provided to the requestors. You do not contend that the remaining two requested proposals are excepted from required public disclosure, but rather seek an open records decision from this office pursuant to section 552.305 of the Government Code. Consequently, this office notified representatives of Prudential Life Insurance Company of America ("Prudential") and Hartford Life ("Hartford") that we received your request for an open records decision regarding their proposals. In our letter to Prudential and Hartford, this office requested an explanation as to why portions of their respective proposals are excepted from public disclosure, with the caveat that their failure to do so within a reasonable time would result in this office instructing you to disclose the information.

More than fourteen days have elapsed since this office issued its notice, but Prudential has not provided this office with any explanation as to why its proposal should not be released. Consequently, we have no basis for applying any exceptions to required public disclosure to Prudential's proposal. *See* Open Records Decision No. 552 (1990). Additionally, although Hartford timely replied to our notice, arguing that its proposal is confidential under section 552.110 of the Government Code, Hartford has made only general arguments as to why its proposal should be excepted from required public disclosure. We conclude that Hartford has not established a *prima facie* case for withholding its proposal under section 552.110. *See* Open Records Decision No. 552 at 5 (1990). The system, therefore, must release the requested proposals in their entirety.

One of the requestors also seeks "any analysis and/or recommendations" regarding the proposals received by the system. You contend that the information responsive to this request is excepted from required public disclosure pursuant to section 552.111 of the Government Code. Section 552.111 of the Government Code excepts interagency and intra-agency memoranda and letters, but only to the extent that they contain advice, opinion, or recommendation intended for use in the entity's policymaking process. Open Records Decision No. 615 at 5 (1993). The purpose of this section is "to protect from public disclosure advice and opinions *on policy matters* and to encourage frank and open discussion within the agency in connection with its decision-making processes." *Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.--San Antonio 1982, writ ref'd n.r.e.) (emphasis added). In Open Records Decision No. 615 at 5, this office held that

to come within the [section 552.111] exception, information must be related to the *policymaking* functions of the governmental body. An agency's policymaking functions do not encompass routine internal administrative and personnel matters . . . . [Emphasis in original.]

The analyses of the proposals that you seek to withhold do not reflect the *formulation* of agency policy or otherwise directly relate to the policy mission of the system, but rather pertain solely to the administrative matter as to the type of insurance the system will offer to its employees. We therefore conclude that none of the analyses may be withheld under section 552.111. Those records must be released in their entirety.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Kay Hastings  
Assistant Attorney General  
Open Records Division

KHH/RWP/nc

Ref.: ID# 128489

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